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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,971	07/24/2006	Greg Hakonson	P544 0002/GNM	4078
720 7590 04/13/2009 OYEN, WIGGS, GREEN & MUTALA LLP 480 - THE STATION 601 WEST CORDOVA STREET VANCOUVER, BC V6B 1G1 CANADA				
EXAMINER				
PATEL, TARLA R				
ART UNIT		PAPER NUMBER		
3772				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,971

Applicant(s)

HAKONSON ET AL.

Examiner

TARLA R. PATEL

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 71-98 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 71-98 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Specification

1. The applicant argument to the abstract of the disclosure does not have to be on a separate page is persuasive, therefore abstract is Ok.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 71, 76 and 96-98 are rejected under 35 U.S.C. 102(b) as being anticipated by Vartia (1,589,670).

Vartia discloses a device for applying force to an anatomical structure (see figures 1-2), the device comprising a first body-encircling member (9) configured to wrap around and grip the anatomical structure at a first location (9 as disclosed as shown in figure 2 to be wrap upper torso member is to wrap around the upper torso of the body), a second body-encircling member (5) configured to wrap around and grip (as shown in figure 3 that the these elements 9 and 5 tighten around the body is interpreted to be grip by these elements 9 and 5) the anatomical structure at a second location that is spaced apart from the first location in a first direction along the anatomical structure (see figure 2) and at least one actuator (14) connected between the first and second body-encircling members (see figure 2), the actuator comprising an inflatable bladder (as

disclosed in page 1 lines 103-107, the actuator is inflatable bladder) having an asymmetrically elastic wall (page 1 lines 83-107) wherein upon inflation the wall constrains the bladder to expand preferentially along an axis extending between the first and second body-encircling members such that when the first and second body-encircling members are wrapped around the anatomical structure, inflation of the bladder forces the first and second body-encircling members apart (page 1 lines 14-38) thereby applying traction to the anatomical structure.

With respect to claims 76, Vartia discloses that the first and second body encircling members are dimensioned to extend around a waist of a person, and actuator extends through an angle which is less than 180 and 270 degrees as measured relative to a central point on a coronal midline of a person wearing the device (see figure 2).

With respect to claims 96 and 97-98, Vartia inherently discloses the actuator does not extend across a front of the person (see figure 1 and 2).

4. Claims 71-98 are rejected under 35 U.S.C. 102(e) as being anticipated by Dunfee (5,950,628).

Dunfee discloses a device for applying force to an anatomical structure (10 as discloses to be lumbar traction vest is interpreted as anatomical structure of user, further apply the traction is interpreted as force), the device comprising a first body-encircling member configured to wrap around and grip the anatomical structure at a first location (20 as disclosed in column 14 lines 8-10 to be upper torso member is to wrap around the upper torso of the body), a second body-encircling member (30) configured to wrap

around and grip (as disclosed in column 13 lines 26-65 that the these elements 20 and 30 tighten around the body is interpreted to be grip by these elements 20 and 30) the anatomical structure at a second location that is spaced apart from the first location in a first direction along the anatomical structure (as disclosed in column 14 lines 9-10 to be lower belt member would be as shown in figure 1 at second location that is spaced apart from the first location of 20) and at least one actuator (40) connected between the first and second body-encircling members (see figure 1), the actuator comprising an inflatable bladder (as disclosed in column 14 lines 51-53, the actuator is inflatable bladder) having an asymmetrically elastic wall (column 16 line 66-column 17 line 58) wherein upon inflation the wall constrains the bladder to expand preferentially along an axis extending between the first and second body-encircling members such that when the first and second body-encircling members are wrapped around the anatomical structure, inflation of the bladder forces the first and second body-encircling members apart (column 17 line 42-column 18 line 7 and column 15 line 53-column 16 line 25) thereby applying traction to the anatomical structure.

With respect to claim 72, Dunfee discloses the bladder comprises a plurality of transversely-spaced generally-parallel tubular portions (see figures 1 and column 16 lines 26-65) in fluid communication through at least one manifold (column 17 lines 4-58), the tubular portions each expandable lengthwise upon inflation of the bladder and extending between the first and second body encircling members (column 15 lines 11-28).

With respect to claim 73, Dunfee discloses the tubular portions extend parallel to the first direction and are closely-spaced to provide a palisade-like arrangement when the bladder is inflated (as disclosed in column 16 lines 26-42, that plurality of vertical inflatable members of greater number would inherently would provide palisade-like arrangement).

With respect to claim 74, Dunfee inherently discloses the tubular portions support one another against deflection in a transverse direction when the bladder is inflated (column 16 lines 43-65).

With respect to claims 75, 76 and 87, Dunfee discloses that the first and second body encircling members are dimensioned to extend around a waist of a person, and actuator extends through an angle which is less than 180 and 270 degrees as measured relative to a central point on a coronal midline of a person wearing the device (see figure 1).

With respect to claim 77, Dunfee discloses the bladder expands preferentially in a direction lying substantially in a surface defined between the first and second body encircling members (column 16 lines 43-65).

With respect to claim 78, Dunfee inherently discloses that the wall of the bladder has a higher modulus of elasticity on outward facing sides of the tubular portions of the actuator than on inward-facing sides of the tubular portions of the actuator (column 17 line 23-column 18 line 31).

With respect to claims 79-80 and 85, Dunfee inherently discloses the wall comprises an air-impermeable layer (as disclosed in column 17 lines 23-58 the bladder is made of latex is interpreted to be air-impermeable) further disclosed that the double-walled

bladder (column 17 line 23-column 18 line 31) is interpreted as two layers of asymmetrically-elastic material joined at longitudinally-extending seams wherein a high-stretch direction of the material is oriented lengthwise relative to the tubular portions (column 17 line 23-column 18 line 31).

With respect to claim 81, Dunfee discloses a fabric material (as disclosed in column 18 lines 19-22) around the bladder is interpreted as a low-stretch direction of the material is oriented circumferentially around the tubular portions.

With respect to claim 82, Dunfee discloses the tubular portions are generally cylindrical when the bladder is inflated and wherein portions of the guide that contact the tubular portions are generally cylindrical when the bladder is inflated (column 17 lines 23-58).

With respect to claim 83, Dunfee inherently discloses wherein when laid flat as being used, actuator is generally rectangular and has a width in direction along the body-encircling members that is greater than a height extending between the members is interpreted by the examiner when laid flat Dunfee's actuator would be generally rectangular and has a width in direction along the body encircling members that is greater than a height extending the member (see figure 1).

With respect to claim 84, Dunfee discloses tubular portions extend substantially at right angles to the body-encircling members (see figure 1).

With respect to claim 86, Dunfee discloses the guide constrains the expansion of the tubular portions asymmetrically, thereby causing the actuator to bend when the bladder is inflated (column 17 lines 23-column 18 line 31).

With respect to claims 87-88, Dunfee inherently discloses device is dimensioned to apply unloading force to a lumbar spine of a person, wherein actuator does not extend across a front of a person, actuator located to be adjacent to hip (column 17 line 23-column 18 line 31).

With respect to claim 89, Dunfee discloses the device comprising a first actuator (one of inflatable vertical member 40) located to be adjacent a first hip of a person wearing the device and a second actuator (other of inflatable vertical member 40) located to be adjacent a second hip of the person wearing the device, as best interpreted by the examiner the actuators of Dunfee device would locate one at one hip and other at second hip location.

With respect to claim 90, Dunfee discloses where in the first and second actuators are individually adjustable (column 17 line 23-column 18 line 31).

With respect to claims 91-94, Dunfee disclose a method for supporting a body part as claimed. As described above, Dunfee disclose all the structural limitations of a device as claimed.

With respect to claim 95, Dunfee discloses the asymmetrically elastic wall comprises a woven asymmetrically-elastic material having a high-stretch direction oriented parallel to the first direction (column 17 line 23-column 18 line 31).

With respect to claims 96 and 97-98, Dunfee inherently discloses the actuator does not extend across a front of the person as disclosed in column 16 lines 26-42 that correct deviation of spinal conformation desirable vertical inflatable members are utilized, therefore if person desire actuator would not extend front of a person.

Response to Arguments

5. Applicant's arguments with respect to claims 71-98 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roballey (2004/0073150) discloses ambulatory trans-lumbar traction system.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TARLA R. PATEL whose telephone number is (571)272-3143. The examiner can normally be reached on M-T 6-3.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tarla R Patel/
Examiner, Art Unit 3772

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772